

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

MERCK SHARP & DOHME CORP.

Plaintiff,

v.

ACTAVIS LABORATORIES FL, INC., et al

Defendants.

:
:
:
:
:
:
:
:
:
:
:
:

Civil No. 15-6075 (PGS)(DEA)

ORDER

This matter comes before the Court on an informal application by Plaintiff (1) to strike the Declaration of Defendants' expert Dr. Vladimir Muzykantov; and (2) for leave to amend the First Amended Joint Claim Construction and Prehearing Statement to include deposition testimony elicited during expert discovery that is pertinent to claim construction issues.

Defendant opposes Plaintiff's application. In reply, Merck has agreed to withdraw its application to strike if it is permitted to call its own expert at the claim construction hearing-- Dr. Ronald Dolle--to testify in rebuttal to Dr. Muzykantov's opinions and to participate, if appropriate, in a tutorial on the relevant art at that hearing.

The Court has carefully considered the submissions of the parties and finds that Merck's compromise proposal provides a reasonable resolution of the issues, permits the District Judge to hear expert testimony from both parties, and does not unduly prejudice Defendant. Accordingly,

IT IS on this 1st day of May, 2017,

ORDERED Plaintiff's expert Dr. Ronald Dolle will be permitted to testify at the claim construction hearing and participate in a tutorial on the relevant art; and it is further

ORDERED that Plaintiff's application to strike is, therefore, deemed withdrawn; and
it is further

ORDERED that Plaintiff's application for leave to amend the First Amended Joint
Claim Construction and Prehearing Statement is granted.

/s/ Douglas E. Arpert

DOUGLAS E. ARPert

United States Magistrate Judge